

REMARKS

Applicants respectfully request reconsideration of the present Application. Claims 1, 19, and 30 have been amended herein. Care has been exercised to introduce no new matter. Claims 1-24 and 30-31 are pending and are in condition for allowance.

Objections

Claims 1 and 19 recited the limitation “wherein said menu items comprise at least one section containing only operating system specific menu items and a second section containing only application program specific menu items.” The Office alleged that said limitation was grammatically awkward.

Claims 1 and 19, as well as claim 30 have been amended, to change the alleged grammatically awkward portion. In the Advisory Action mailed April 15, 2009, the Office confused Applicants’ claimed features in a number of ways, and as a result, Applicants have amended claims 1, 19, and 30 to better clarify Applicants’ claimed invention. As an example, claim 1 claims in part, “... wherein said menu items [from the first area] *comprise a first section* consisting of operating system specific menu items separated from a *second section* consisting of application program specific menu items ...” Summarized, the menu items comprise a first section and a second section. However, the first section consists of [i.e. contains only] operating system specific menu items. The second section consists of [i.e. contains only] application program specific menu items. Stated another way, the first section does not contain anything else, except what could be classified as an operating system specific menu item. Likewise, the second section does not contain anything else, except what could be classified as an application

program specific menu item. The first section is also grouped separately from the second section.

Claim 19 similarly claims, inter alia a displayed menu item comprising a first section consisting of operating system specific menu items grouped separately from a second section consisting of application program specific menu items. Therefore, Applicants respectfully request withdrawal of the objection to claims 1 and 19.

Rejections based on 35 U.S.C. § 103(a)

Applicable Authority

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason—suggestions or motivations—found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention. See *Application of Bergel*, 292 F.2d 955, 956-957 (CCPA 1961). Recently, the Supreme Court noted that the apparent reason to combine the elements in the fashion claimed by the [patent application] should be made explicit. *KSR v. Teleflex*, No. 04-1350, 550 U.S. 398 (2007).

Claims 1-8, 10-12 and 19-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo supplemented by ObjectDock readme file, and Gardner et al., U.S. Patent No. 7,003,734. Applicants respectfully traverse said rejection for the following reasons.

Examiner acknowledges that ObjectDock demo does not disclose menu items comprising a first section consisting of operating system specific menu items and a second section consisting of application program specific items. Examiner uses ObjectDock readme file, Fig. 1A to remedy the deficiency of ObjectDock demo. Fig. 1A appears to have a divider, thereby possibly showing a first section and a second section. However, Fig. 1A or the cited section 0.70 provides no description, in part or in whole, direct or indirect, or implicit or explicit as to one section being limited to containing operating system specific menu items and a second separate section being limited to containing application program specific items. Gardner does not compensate for the deficiencies of ObjectDock demo or ObjectDock readme file.

Claims 1 and 19 have been shown to be allowable over the prior art of record. As such, dependent claims 2-8, 10-12, and 20-24 are also allowable, at least for the reasons stated above with regard to independent claims 1 and 19. Therefore, Applicants respectfully request the withdrawal of the rejection of claims 1-8, 10-12 and 19-24 under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo supplemented by ObjectDock readme file, and Gardner et al., U.S. Patent No. 7,003,734 and allowance of claims 1-8, 10-12 and 19-24.

Claims 13-16 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo, and Gardner. Applicants respectfully traverse said rejection for the following reasons.

ObjectDock demo and Gardner may possibly describe the presence of elements of Applicants' claim 13. However, neither ObjectDock demo nor Gardner describe, "... wherein the distinct area remains in a fixed position relative to the pointer ..." Examiner cites Gardner in Fig. 3 and col.6 lines 38-40 as disclosing this claimed feature. Col.6 lines 38-40 of Gardner read, "Referring now to Fig. 3, each of the hot spots 100 is associated with a predetermined or predefined associated image 120. One image is associated with each hot spot 100." Gardner may possibly describe the presence of individual objects or items of Applicants' claim 13, but there is no disclosure of a distinct area which remains in a fixed position relative to the pointer. Gardner is silent as to the movement of one, relative to the other.

Claim 13 has been shown to be allowable over the prior art of record, as discussed above. Likewise, dependent claims 14-16 and 18 are also allowable, at least for the reasons given above with regard to independent claim 13. Therefore, Applicants respectfully request the withdrawal of the rejection of claims 13-16 and 18 under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo, and Gardner and allowance of claims 13-16 and 18.

Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo, and Gardner and Viellescaze et al., U.S. Publication No. 2004/0179043. Applicants respectfully traverse said rejection for the following reasons.

Independent claim 13, from which claim 17 depends, was previously shown to be allowable over the prior art of record. Therefore, claim 17 is also allowable over the prior art of

record, at least for the same reasons with regard to claim 13. As such, Applicants respectfully request the withdrawal of the rejection of claim 17 under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo, and Gardner and Viellescaze et al., U.S. Publication No. 2004/0179043 and allowance of claim 17.

Claim 23 was rejected under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo supplemented by ObjectDock readme file, Gardner and Viellescaze et al., U.S. Publication No. 2004/0179043. Applicants respectfully traverse said rejection for the following reasons.

Independent claim 19, from which claim 23 depends, was previously shown to be allowable over the prior art of record. Therefore, claim 23 is also allowable over the prior art of record, at least for the same reasons with regard to claim 19. As such, Applicants respectfully request the withdrawal of the rejection of claim 23 under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo supplemented by ObjectDock readme file, Gardner and Viellescaze et al., U.S. Publication No. 2004/0179043 and allowance of claim 23.

Claims 9 and 30-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo supplemented by ObjectDock readme file, Gardner and Rosendahl et al., U.S. Patent No. 5,452,414. Applicants respectfully traverse said rejection for the following reasons.

Independent claim 1, from which claim 9 depends, was previously shown to be allowable over the prior art of record. Therefore, claim 9 is also allowable over the prior art of record, at least for the same reasons with regard to claim 1.

Independent claim 30 claims, inter alia, "... a start menu divided into a plurality of discrete sections, a first section consisting of operating system specific menu items grouped separately from a second section consisting of application program specific menu items ...". As discussed above with regard to claims 1 and 19, ObjectDock readme file in combination with ObjectDock demo, do not disclose this claim feature. Fig. 1A appears to have a divider, thereby possibly showing a first section and a second section. However, Fig. 1A or the cited section 0.70 provides no description, in part or in whole, direct or indirect, or implicit or explicit as to one section being limited to containing operating system specific menu items and a second section being limited to containing application program specific items. Gardner and Rosendahl, either singly or in combination, do not compensate for the deficiencies of ObjectDock demo or ObjectDock readme file. Claim 30 is therefore, allowable over the prior art of record. As such, dependent claim 31 is also allowable over the prior art of record, at least for the reasons given with regard to claim 30.

Therefore, Applicants respectfully request the withdrawal of the rejection of claims 9 and 30-31 under 35 U.S.C. § 103(a) as being unpatentable over ObjectDock demo supplemented by ObjectDock readme file, Gardner and Rosendahl et al., U.S. Patent No. 5,452,414 and allowance of claims 9 and 30-31.

CONCLUSION

For at least the reasons stated above, claims 1-24 and 30-31 are now in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 202/783-8400 or nberezny@shb.com (such communication via email is herein expressly granted) – to resolve the same. It is believed that no fee is due, however, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112.

Respectfully submitted,

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